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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,626	12/17/2003	Terrence Joseph Cassaday	56836.07/eig	4085

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EXAMINER	
WHITE, RODNEY BARNETT	

ART UNIT	PAPER NUMBER
3636	

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/736,626	CASSADAY, TERRENCE JOSEPH	
	Examiner	Art Unit	
	Rodney B. White	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☒ Claim(s) *23* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant's arguments filed 3/1/2005 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-21 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Matern et al (U.S. Patent No. 6,609,760).

Matern et al teach the structure as claimed (See Figures 2-3, 5m and 10-12).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matern et al in view of Carstens (U.S. Patent Application Publication No. 2002/0070590A1).

Matern et al teach the structure substnaitally as claimed but does not teach the screen and visual representations as defined in claim 22. However, Carstens teaches such improvements to a chair to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the chair, as taught by Matern et al, to include such provisions as taught by Carstens, since the it would allow the chair to be used for many purposes.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matern et al in view of May et al (U.S. Patent No. 6,102,476).

Matern et al teach the structure substnaitally as claimed but does not teach the screen and visual representations as defined in claim 22. However, May et al teach such improvements to a chair to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the chair, as taught by Matern et al, to include such provisions as taught by May et al, since the it would allow the chair to be used for many purposes.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matern et al in view of Di Re (U.S. Patent Application Publication No. 2004/0007907 A1).

Matern et al teach the structure substantially as claimed but does not teach the screen and visual representations as defined in claim 22. However, Di Re teaches such improvements to a chair to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the chair, as taught by Matern et al, to include such provisions as taught by Di Re, since the it would allow the chair to be used for many purposes.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matern et al in view of Dayton (U.S. Patent No. 4,868,888).

Matern et al teach the structure substantially as claimed but does not teach the screen and visual representations as defined in claim 22. However, Dayton teaches such improvements to a chair to be old. It would have been obvious and well within the

level of ordinary skill in the art to modify the chair, as taught by Matern et al, to include such provisions as taught by Dayton, since the it would allow the chair to be used for many purposes.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matern et al in view of Takemoto et al (U.S. Patent No. 5,807,177).

Matern et al teach the structure substnaitally as claimed but does not teach the screen and visual representations as defined in claim 22. However, Takemoto et al teaches such improvements to a chair to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the chair, as taught by Matern et al, to include such provisions as taught by Takemoto et al, since the it would allow the chair to be used for many purposes.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matern et al in view of Wells et al (U.S. Patent No. 6,530,842 B1).

Matern et al teach the structure substantially as claimed but does not teach the screen and visual representations as defined in claim 22. However, Wells et al teach such improvements to a chair to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the chair, as taught by Wells et al, to include such provisions as taught by Wells et al, since the it would allow the chair to be used for many purposes.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matern et al in view of Hocking (U.S. Patent No. 5,779,3052).

Matern et al teach the structure substantially as claimed but does not teach the screen and visual representations as defined in claim 22. However, Hocking teach such improvements to a chair to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the chair, as taught by Hocking, to include such provisions as taught by Wells et al, since the it would allow the chair to be used for many purposes.

Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: While Matern et al does teach guides on each control lever displaying the associated movements of the first and second control lever arms, as depicted in Figures 3, 5, and 10-12, they do not teach the guide presented by the arm of the chair for displaying the different geometric shapes and the associated movements of the first and second lever control arms.

Remarks

Applicant has added language to the claims that the claim now reads "a peripheral edge defining a tactile contour for identifying said control lever" and dependent claim 3 now reads that the "tactile contour....is selected from the group of geometrical shapes". Matern et al still teaches "a peripheral edge defining a tactile contour for identifying the control lever as Fig. 2 clearly shows control levers 50, 52, 54 each having a different shape, therefore satisfying the "peripheral edge" limitation, and those shapes selected from the rectangular and oval shapes, each control lever used for actuating various adjustability features of the chair.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,
Patent Examiner
Art Unit 3636
May 4, 2005